[redacted]

(19,247.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

No. 195.

JOSEPH L. HARLEY, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JUNE 7, 1904.

1 In the Court of Claims.

JOSEPH L. HARLEY
vs.
THE UNITED STATES. } No. 14421.

I.—*Petition. Filed July* 24, 1884.

To the honorable the Court of Claims:

Your petitioner, Joseph L. Harley, respectfully represents:

I.

That he is a citizen of the United States, and that he has at all times borne true allegiance thereto.

II.

That your petitioner is the inventor and patentee of a certain mechanical device, being an "improvement in plate-printing register," for which letters-patent No. 100,399, dated March 1, 1870, were issued to him by the defendant; that he is now, and ever has been, sole owner of said patent.

III.

That ever since the issuance of said letters-patent to claimant the defendant has constructed and used continuously, from and since the date of said letters-patent, to wit, the 1st day of March, 1870, upon and in connection with the plate-printing presses used by the defendant, in the Bureau of Engraving and Printing, the device aforesaid, so patented and secured to and owned by the claim-
2 ant as aforesaid; that the number of said devices so made and used by the defendant continuously, in connection with said presses, and now used, was and is a large number, to wit, the average number of two hundred and twenty-eight (228); that one of the said devices has been used during all the time aforesaid, and is now used, upon each hand plate-printing press, one on each steam plate printing-press, and one on each steam-surface printing press, which, during the term aforesaid, was and now is in use in the said Bureau; that on all the said presses during all the period aforesaid, and ever since the issuing of said letters-patent, have been printed all the bonds, Treasury notes, national bank notes, internal revenue stamps, pension checks, disbursing officers' checks, private die stamps, documentary and proprietary stamps, and valuable miscellaneous printing, which have been and are being printed by the defendant for its own use and service; and each impression so made

is and has been accurately registered, by means of the said use o
said device, so attached to each press, and secured to and owned b
claimant as aforesaid; that by the application and use of said devic
as aforesaid the defendant has saved and been freed from the expens
of the services of a large number of persons whose services, withou
the use of said device, would have been indispensably necessary t
the proper protection of the interests of the defendant in and abou
the said business; that the said work accomplished by the said de
vice is an infallibly accurate registration of the number of impres
sions made by each press to which said device is attached, and th
device is such that it can not be tampered with, nor the accuracy
of its registration of each and every impression destroyed or im
paired; and that the use thereof renders surreptitious printing im
possible, without detection, and, by reason of said infallible accuracy
of the said device, as a registration and preservation of the numbe
of impressions made by said presses to which the device is
3 attached, is far more reliable, accurate, and valuable than
defendant could possibly secure by means of the employment
of persons to keep account of said impressions.

And claimant further avers that the work accomplished by said device is in amount equal to the services of one person for each press to which said device is attached, and, as aforesaid, and for the reasons aforesaid, more valuable to the defendant, by reason of said greater accuracy; and that there is practically no substitute for said device, as a means of registering said impressions, except by using a person to each press; and such substitute is, as aforesaid, far less valuable, because less reliable and accurate.

Claimant further avers that the cost of constructing said device is fifteen dollars ($15).

Claimant further avers that the aggregate face value of the securities printed by the defendant, and so registered by means of said device, as hereinabove set forth, exceeds the sum of six hundred millions of dollars ($600,000,000) for each year during the time of its use, as above set forth.

IV.

Claimant further avers that by means and reason of all the facts and premises above set forth, and especially by means and reason of the exclusive rights and ownership belonging and secured to claimant by the making of the said invention, and by the said letters-patent to claimant from the defendant, securing to claimant the exclusive right to make, use, and vend said invention, and by means and reason of the use of said invention by the defendant, as herein set forth, the said defendant assumed, agreed, and promised to pay to the claimant the just, fair, and reasonable value of the privilege and use which the defendant has had, as aforesaid, in making and using said device so covered by said letters-patent.

4 And claimant further avers that the said right to make and use the said device, as the same has been had and enjoyed by the defendant, as hereinbefore stated, was and is reasonably worth the sum of twenty-five (25) cents for each of said devices so used, for each day during which the same has been used, as above set forth.

V.

Claimant further avers that each of the two hundred and twenty-eight (228) devices, which was used by the defendant as aforesaid, was used about and not less than three hundred (300) days in each full year, during all the period aforesaid since the first day of March, 1870, and, at that rate, during the present year and up to the bringing of the present action.

VI.

Claimant further avers that owing to the statute of limitations he only sues for and claims for the value of the said use by the defendant of the said invention and device so patented to the claimant, as had and enjoyed by the defendant during the last six years before the commencement of this action; and that during the said last six years next before the bringing of this action the defendant used an average of two hundred and twenty-eight (228) of said devices, as above averred, for and during eighteen hundred (1,800) working days.

VII.

Claimant further avers that he is the sole owner of the said claim; that no transfer or assignment of the same, or of any part thereof or of any interest therein, has ever been made by the claimant; that he is justly entitled to the amount herein claimed,
5 & 6 to wit, to twenty-five (25) cents per day for each of the said eighteen hundred (1,800) days during said last six years, for each of said two hundred and twenty-eight (228) devices so used by the defendant, making the aggregate of the said claim for said use amount to the sum of one hundred and two thousand six hundred dollars ($102,600), for which amount claimant asks judgment.

JOS. L. HARLEY.

SHELLABARGER & WILSON,
Attorneys for Claimant.

CITY OF WASHINGTON, *District of Columbia,* } ss:

Joseph L. Harley, the claimant in the above case, now comes, and on solemn oath says that he has heard the foregoing petition by him described fully read, and is acquainted with the contents thereof, and that the said petition so by him subscribed is true in substance and in fact, as he verily believes.

JOS. L. HARLEY.

Subscribed and sworn to before me by the claimant, Joseph L. Harley, this 23d day of July, A. D. 1884.

In witness whereof, I have hereunto set my hand and notarial seal.

[SEAL.] ROBERT R. SHELLABARGER,
Notary Public.

Post-office address of Joseph L. Harley, Washington, D. C.
Post-office address of Shellabarger & Wilson, the same place.

* * * * * * *

7 III.—*Argument and Submission of Case.*

This cause was argued on the 18th, 19th and 24th days of March, 1903, and submitted.

IV.—*Claimant's Motion to Amend and Supplement the Findings of Fact.*

Comes now the claimant, by his attorney, and moves the court to amend and supplement the findings of fact herein, as follows:

1. Change the word "complicated" to "completed," in printed line six, of finding IV.

2. Amend finding VI, so that it shall read:

VI.

The average number of presses with claimant's device used by the defendants between July 24, 1878, and July 24, 1884, was 200 per day, covering 1802 working days.

3. Add the following finding:

VII.

The reasonable value to the defendants of the use of said registers, and of the patented device of claimant which they embodied, if, under the facts found herein, the defendants are liable to pay therefor, is the sum of twenty-five cents per day for each of the 200 presses upon which said registers were attached and used, during said period of 1802 working days, aggregating the sum of $90,100.

4. Add the following finding:

VIII.

The patented device of claimant insures an unfailing record beyond surreptitious alteration and control. No other device, capable of performing its work, or affording like protection, has been brought forward in the proofs.

Respectfully submitted

A. A. HOEHLING,
Attorney for Claimant.

Filed December 30, 1903.

8–13 V.—*Order on Claimant's Motion to Amend Findings.*

It is ordered that the claimant's motion, filed December 30, 1903, to amend finding IV of the court by striking out the word "complicated" in line 6 and substituting the word "completed" is allowed.

Claimant's motion to amend finding VI of the court by striking out the figures "203" at the end of line 2 and substituting "200 per day" and adding thereafter the following: "covering 1802 working days" is allowed.

Claimant's proposed addition of finding VII is refused as immaterial, the claimant having failed to establish a contract with the defendants.

Claimant's proposed addition of finding VIII refused as being evidence going to the question of damages.

It is also ordered that the word "engraved" in line 2 of finding II of the court be stricken out and that the word "printed" be substituted therefor.

BY THE COURT.

Filed February 15, 1904.

* * * * * * *

14 VIII.—*Findings of Fact and Conclusion of Law.*

In this case the court filed its findings of fact and conclusion of law December 21, 1903 and subsequently to wit on February 15, 1904, it filed in lieu thereof its corrected and amended findings as follows:

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following

Findings of Fact.

I.

Letters-patent No. 100399, dated March 1, 1870, were by the Government of the United States, duly granted and issued to the claimant, Joseph L. Harley, securing to him a monopoly, pursuant to the laws of the United States, in the invention described in said letters-patent, as follows:

United States Patent Office.

JOSEPH A. HARLEY, of Washington, District of Columbia. Letters Patent No. 100399, dated March 1, 1870.

Improvement in Plate-printing Register.

(The schedule referred to in these letters patent and making part of the same.)

To all whom it may concern:

Be it known that I, Joseph L. Harley, of the city of Washington, in the county of Washington, and District of Columbia, have invented certain improvements in registering devices in connection with printing-presses, of which the following is a specification, reference being had to the accompanying drawings.

My invention consists in the novel construction and arrangement of a series of mechanical devices, in connection with suitable dials for registering on their faces the exact movement of its parts, and also, in connecting these mechanical devices with their dials to a hand or other printing press adapted to the printing of fractional currency, bank notes, or similar articles, for the specific purpose of registering the exact number of times the bed-piece of the press is moved backward and forward, and consequently the exact number of impressions that could or should be taken or made by such movements.

In the drawings—

Figure 1 is a perspective view of the press with my mechanical devices for registering attached, and

Figure 2 is a side elevation, showing my mechanical devices as constructed and arranged.

In constructing and arranging my mechanical devices, I make a frame, P, and mount therein a bar, G, shaped as shown in Fig. 1, and having pivoted to it four pawls, d, d', e, and e', and having connected to it four springs, M, M′, N, and N′, located so as to bear against the under side of the pawls, one under each, respectively, for the pur-

pose of holding them in position, and I arrange the bar so that it may be moved in alternate directions on pins C, passing through slots *h*, limiting its movement by a spring-stop, L, which catches into notches *g* on its under side, and which has one end attached to the frame P, all as shown in Fig. 1.

In the same frame P, I mount a star-wheel, H, two ratchet-wheels I and I′ of equal size, having studs *f* and *f′* attached to their faces respectively, two smaller wheels K and K′, of equal size, with their peripheries formed in semicircular curves, and two drops, J and J′. These wheels and drops are shaped and arranged in the relative positions as shown in said Fig. 1.

To the frame P, I also attach the pawls *i* and *i′*, to catch in the ratchet-wheels I and I′ respectively, and also the springs *j* and *j′*, to be connected with the upper ends of the drops J and J′, respectively. These drops J and J′ have on the inner side of their upper ends a stud, *k*, represented in dotted lines, all as shown in the same Fig. 1.

The manner in which these devices operate is as follows:

When the star-wheel H moves in the direction of arrow No. 1, one of its points will bear against the end of the pawl *d* and slide the bar in the direction of arrow No. 2, while the pawl *e′* will turn the ratchet wheel I′ the distance of one catch or tooth in the direction of arrow No. 5, and at the same time, the wheel I being held stationary by the ratchet *i*, the pawl *e* will be depressed by the pressure of a tooth on this ratchet-wheel I and be carried into the next tooth by the spring N, and while this is being done the pawl *d′* will be pressed down by another tooth of the star-wheel and be carried up behind it by the spring M′ as soon as it has turned far enough for the purpose.

When the bar G has been carried far enough to accomplish these results, the point of the star-wheel moving it can pass by the point of the pawl *d* and will move it no further. At the same time the bar is held in position by the stop L, and further continued movement of the star-wheel in that direction cannot affect the position of the ratchet-wheel I′.

The movement of the star-wheel H is now reversed and turned in the direction of arrow No. 3, when one of its points will bear against the end of pawl *d′* and slide the bar G in the direction of arrow No. 4, when the pawl *e′* will be carried back one notch on the ratchet-wheel I′, which is held stationary by the pawl *i′*.

At the same time the pawl *e* will move the ratchet-wheel I forward in the direction of arrow No. 6 the distance of one notch, and the pawl *d* will be depressed and dropped back a notch on the star-wheel, and when the bar has been carried far enough to ac-
16 complish these results, as before, the point of the star-wheel will pass by and cease to act on the pawl, and the bar will be held by the stop L. In this way the ratchet-wheels I and I′ are moved one notch in opposite directions by the movement of the bar G forth and back.

As these ratchet-wheels revolve, the studs *f* and *f′* on their faces,

respectively, will come in contact with a projecting arm, *l*, of the respective droppers J and J′ and raise them vertically until they (the studs) come in contact with a semicircle in the periphery of the wheels K and K′, respectively, when in their onward movement they will turn these wheels just the distance of the length of one of the curves in their peripheries and then pass on away from it.

At the same time that the drops J and J′ have been raised high enough to allow the studs *f f′* to come in contact with the wheels K K′ the studs *k k′* have been raised high enough to allow the wheels to clear them in turning, and when the studs *f f′* leave the wheels K K′, they also leave the droppers J J′ free to fall, which they do, when the studs *k* in their upper ends will drop into and lock the wheels K K′ in position until the studs *f f′* come round again to move them, and this movement of the droppers is made positive by the springs *j j′* attached to their upper ends.

It will thus be seen that if the wheels I I′ be provided each with one hundred ratchets or notches, and the wheels *k k′* have each twelve semicircular curves in their peripheries, that one revolution of the wheels I and I′ would indicate two hundred movements of the bar G, or one hundred each way, and that one revolution of the wheels K and K′ would indicate twelve revolutions each of the wheels I and I′, or twenty-four hundred movements of the bar G, being twelve hundred each way.

These movements are clearly shown by attaching dials O O′ to the wheels I and I′ and dials P P′ to the wheels K and K′, respectively.

This registering device I use in combination with a hand-press having some novelties in its construction, as shown in Fig. 2 and hereinafter explained.

This press is of the class of hand-presses used in printing bank notes and similar articles, and consists of a frame, A, with an under roller, B, and upper one, C, mounted therein, and with the bed-plank D between them. Also, of the set-screws *b*, for setting the roller C and the levers R, for operating the press.

To one end of the roller B is attached a cog-wheel, F, which gears into a ratchet-plate, E, fastened to the edge of the bed-plank D, as shown in Fig. 1, and to the end of the same roller is attached a stop-pin *a*, to limit the movement of the roller, as shown in the same figure.

The registering-device above described I attach to the printing-press by connecting the star-wheel H, by a pin or other suitable device, to the roller B, and surround it with a strong metallic case, having, if desired, a door that may be securely locked.

On the front of the dial-plate are dials O O′, with hands connected to the wheels I I′; also, dials P P′, connected to the wheels K K′.

It will now be seen that with a press and registering-device thus constructed, arranged, and combined, every movement of the bed-plank will be registered on the faces of dials, in whichever direction

it moves, and that, as the roller B can only move far enough to take a single impression, every time the plate from which the impressions are made is passed between the rolls becomes duly registered
17 and must be accounted for, and that it will be impossible for the operators to take any impressions of any kind from the plates by means of the press without being detected, especially when the dials cannot in any way be reached by the operators.

It will thus be seen that by means of the press, register, &c., thus constructed and arranged, every impression must be accounted for, whether taken upon the paper furnished for the purpose, or taken upon sheets that are not required to be accounted for, since the bed-plank can not be moved without at the same time moving the roller B, which in turn moves the register.

Having thus described my invention,

What I claim is—

1. A registering-device, consisting of the sliding bar G, with its pawls *d d'* and *e e'*, star-wheel H and ratchet-wheels I and I', all constructed and arranged to operate substantially as herein described.

2. In combination with the ratchet-wheel I, the stud-pin *f* for operating the drop J and wheel K, in the manner substantially as herein described.

3. In combination with the star-wheel H and sliding bar G, with its notches *g*, the stop L, or its equivalent, constructed and arranged as described, for the purpose of limiting the movement of the bar G, as set forth.

4. The star-wheel H, the sliding bar G, with its pawls and springs, the ratchet wheels I and I', with their studs *f* and *f'*, the drops J and J', with their studs *k*, and the wheels K and K', when constructed and arranged to operate as herein described, for the purpose of registering on suitable dial-plates each movement of the bar G, as set forth.

5. In combination with a registering device as herein described, a printing-press having its roller B provided with a cog-wheel, F, and its bed-piece D with a ratchet-plate, E, for the purpose of securing a register of the movements of the bed-piece, as set forth.

6. In combination with the printing-press having cog-wheel F and ratchet-plate E, the stop *a*, for the purpose of limiting the movement of the roller B and its connections, as set forth.

JOS. L. HARLEY.

Witnesses:
H. B. MUNN.
PHIL. T. DODGE.

II.

In November, 1869, the Secretary of the Treasury determined that certain valuable securities should not be printed in the Bureau of Engraving and Printing until proper and reliable registers should

be attached to the presses. While the Chief of the Bureau was endeavoring to devise and procure a trustworthy form of register, the claimant brought to him the drawings of a device which he had invented, being substantially the device described in the foregoing letters patent. The Chief of the Bureau ordered a register to be immediately made after the claimant's device. At the time of giving such order he understood that the device was the claimant's invention.

The register so ordered being completed, and tried and found satisfactory, the Chief of the Bureau proposed to take the claimant to the Secretary of the Treasury that he might explain it to him. The claimant thereupon objected that the invention was not yet
18 patented, and that he wished, before exhibiting it, to obtain a patent for his individual protection. The Chief of the Bureau replied, "Certainly; I will see that you are protected." The claimant, then tacitly consenting, was taken before the Secretary, and explained to him the operation of the register, and the Secretary was at the same time informed that this was the register which the claimant had invented. The Secretary approved the form of register, and directed that such registers be made and attached to the presses in the Bureau.

Before such registers were manufactured the claimant remonstrated to the effect that he wished first to secure a patent. The Chief of the Bureau replied that he would see the claimant protected and would get him a patent attorney who would explain the law to him. This the Chief of the Bureau did, and the attorney so selected proceeded to procure the patent before set forth, the claimant, not the defendants, paying him and the costs and expenses thereof. The attorney so selected at the same time informed the claimant that the manufacture and use of registers in the Bureau would not interfere with or prevent the procurement of the patent.

After being so advised, the claimant raised no further objection to the registers being manufactured and used, and tacitly acquiesced in the same.

There was no agreement or understanding between the parties in regard to royalty or the payment of remuneration for the use of the claimant's invention in the Government's printing and engraving other than such as may be inferred from the preceding conversations. On the part of the claimant it was supposed and understood that he would be entitled to compensation, and that it would be allowed and paid by the Secretary of the Treasury. But on the part of the Secretary and Chief of the Bureau it was supposed and understood that the claimant, being an employee of the Treasury Department, would neither expect nor demand remuneration.

III.

That ever since the issuance of said letters patent the defendant has constructed, and has used continuously, from the date of said

letters patent, to wit, March 1, 1870, upon and in connection with plate printing presses used by the defendant in the Bureau of Engraving and Printing and in the Treasury building, the device aforesaid, so patented to the claimant, for the purpose of registering the number of impressions made by the various plate-printing presses, both hand and steam, employed and used by the defendant in the said Bureau of Engraving and Printing and in the Treasury Department building.

IV.

The claimant at the time of the making of his invention before described was assistant master machinist in the Bureau of Engraving and Printing. He was never assigned to the duty of making inventions, and it was not a part of his duty to do so; and the invention before described was made within his own time and exclusively at his own cost, and was a completed invention properly and sufficiently set forth in drawings when first brought to the Chief of the Bureau as set forth in finding II.

V.

The defendants were in the undisturbed use of the claimant's invention from July 24, 1878, to July 24, 1884, by attaching such registers to a great number of their presses. During that period the claimant made no objection to such use of his invention, and failed to give notice to the Secretary of the Treasury or the Chief of the Bureau of Engraving and Printing that he would demand royalty or remuneration therefor.

VI.

The average number of presses with claimant's device used by the defendants between July 24, 1878, and July 24, 1884, was 200 per day covering 1802 working days.

Conclusion of Law.

Upon the foregoing findings of fact the court decides as a conclusion of law that the petition of the claimant should be dismissed.

BY THE COURT.

19 IX.—*Opinion of the Court.*

NOTT, Ch. J., delivered the opinion of the court:

This case resembles Gill's (25 C. Cls. R., 415) in that "the claimant was a simple mechanic, on daily wages, holding a subordinate position, charged with no responsibility save that of performing honestly

his daily task, and his conduct was fair, honest, and irreproachable." It also resembles the Gill case in that he was the inventor of an exceedingly valuable device, which the Government has used many years in its business of engraving and printing; that it was not a part of his duty to make inventions; that his device was made and invented and perfected within his own time and exclusively at his own cost; and that while it has been of very great value to the Government he has never received for its use so much as one dollar.

At this point resemblances cease and differences begin: In Gill's case the claimant went to the officers of the Government with his invention and proffered it. In this case the officers of the Government came to the claimant; the superintendent of the Bureau of Engraving and Printing carried him, manifestly reluctant to go, before the Secretary of the Treasury, and the Secretary of the Treasury and the superintendent took the invention and attached it to the presses in the defendants' shops without a word of solicitation upon his part. In Gill's case the officers of the Government did not know that the claimant intended to patent his device, and eight of the nine machines used in the arsenal were in operation before he so much as applied for a patent. In this case the claimant demurred to the use of his device by the Government, and told the superintendent that he wished to patent it first; and the superintendent volunteered to supply him with a patent lawyer; and the patent lawyer which he so supplied assured the claimant that the use of the invention by the Government would not interfere with his rights as a patentee; and the superintendent knew that the invention would be patented and was being patented as fully and completely as the claimant himself.

In the Gill case it was said that the device when brought to the attention of the officers was simply "the committal of a thought to paper," and that its complicated parts were such that no one could say the device was valuable or that it would not require years of modifying and perfecting to make its value apparent, and that the Government bore the expense of bringing the invention to the test of practical operation. In this case the device was exceedingly simple; it was perfectly evident that it would be operative; the cost to the Government of making a register was too trival, both in time and money, to form a consideration, and was done voluntarily by the superintendent and not at the solicitation of the claimant.

But at this point unhappily the resemblances between the two cases begin again. The claimant did not speak out and say either to the Secretary or to the superintendent, "If the Government used my device I must be paid a royalty." It is painfully apparent that the poor mechanic, in the presence of such powerful employers, feared to speak. He rested, not on what was said by the Secretary or the superintendent or himself, but on a vague hope that if his register worked well the Secretary of the Treasury would allow him something. The work of introducing his device into the press room went on for seventy-three months and until the Bureau had attached

and used registers of his device amounting to an aggregate of 14,382. Then the claimant spoke.

In its business of engraving bank bills and bonds the Government is a manufacturer and entitled to no more consideration than any other engraver and printer. But it is entitled to no less. If this were an action between the claimant and an individual manufacturer two questions would arise: First. Was there a contract, express or implied, between the parties? Second. Did the employee so mislead the employer that as against his legal claim an equitable estoppel should preclude him from asserting his legal rights?

Of what are called, generally, "implied contracts," there are two kinds. The first is where a man has tortiously taken property and the owner waives the tort and sues *in assumpsit*. In such cases there is no meeting of the minds. It would be absurd to hold by legal fiction that their minds met, when the defendant unlawfully and against the owner's will took his property, or when without the owner's knowledge he sold it. Such cases rest upon the principle that if the owner chooses to waive a tort and sue for the money derived from his property which is in the defendant's hands, the defendant can not set up his own unlawful conduct as a defense. The second kind of implied contracts is where the parties met and their meeting resulted in a wordless agreement.

In the leading case of McKeever (14 C. Cls. R., 396) the War Department appointed a board of officers to consider the military devices which inventors were presenting for sale. The board recommended the claimant's device as one which should be adopted and used in the army. The War Department approved the recommendation and the Ordnance Bureau proceeded to manufacture. Here was an agreement in everything but words—an agreement on one side that the Government might use the invention, and on the other that it would pay for it what it might be reasonably worth.

If in the case now before us the inventor had said to the Secretary of the Treasury, "You may use my device, paying me a reasonable royalty," and the Secretary had said nothing, but had ordered the device adopted, a jury would be authorized to imply from the circumstances the words of acquiescence and agreement which the Secretary did not speak, and a contract would be implied. But, as before stated, the claimant did not speak, and the Secretary and superintendent remained under the illusion that the claimant did not intend to charge the Government anything for the use of the invention in a bureau in which he was an employee. Clearly here was a case where there might have been a meeting of minds and should have been a meeting of minds, but where there was none. The claimant said nothing about royalty; he heard the order given for the manufacture of registers after his design, and still he said not a word concerning remuneration.

It is a well-settled rule of law that a man can not have a contract thrust upon him against his will. As was said in the case of Boston

v. District of Columbia (19 C. Cls. R., 31), "An implied contract does not arise from a merely voluntary service. If a man make a gift *inter vivos* to-day he can not turn round and sue for its value to-morrow. So, if one perform an act beneficial both to himself and another he can not make the other contribute his quota of the cost without showing agreement or ratification. It is true that a wrong-doer may be held in contract though he made none; and it is true that one who receives a benefit or accepts a service may be estopped from saying that he did not agree to pay for it; but, nevertheless it is a general principle that no man can be forced into a contract against his will."

The closest analogy to the present case is that of gifts *inter vivos*. A man can not make presents to another year after year and then sue him for their value on an implied contract. It is true that the recipient gave no consideration; it may be true that no express words were spoken which indicated that the gifts were gifts; but if the giver allowed the other to believe that they were gifts and he accepted them in that belief, and there was no meeting of minds between them, expressed or unexpressed, looking toward a contract the law will not allow a contract for their value to be implied.

In this case the transactions were between employer and employee which comes near to being *inter vivos*, and the employer accepted and continued to accept in the belief that the implied license to use was to be without consideration—was to be a gift growing out of the peculiar relations of the parties, and this went on year after year. The defendants had no legal right to use the invention, but they had the right to print and engrave without using it. That is to say if they had known that a royalty would be exacted they had the right to save themselves that expense and to use registers of another device.

The judgment of the court is that the petition be dismissed.

Howry, J., did not sit in this case and took no part in the decision.

21 X.—*Judgment of the Court.*

JOSEPH L. HARLEY
vs.
THE UNITED STATES. } No. 14421.

At a Court of Claims held in the city of Washington on the 21st day of December 1903, judgment was ordered to be entered in the above-entitled cause as follows:

The court on due consideration of the premises find for the defendants, and do order, adjudge and decree that the petition of the claimant—Joseph L. Harley be dismissed.

BY THE COURT.

22 XI.—*Application for and Allowance of Appeal.*

JOSEPH L. HARLEY
vs.
THE UNITED STATES. } No. 14421.

Comes now the above-named claimant, by his attorney of record, and prays an appeal to the Supreme Court of the United States from the judgment entered herein in favor of defendants and dismissing the petition of claimant.

A. A. HOEHLING, JR.,
Attorney for Claimant.

Filed February 18, 1904.

Ordered that the appeal of the claimant be allowed as prayed for.

BY THE COURT.

February 18, 1904.

23 In the Court of Claims.

JOSEPH L. HARLEY
vs.
UNITED STATES. } No. 14421.

I, John Randolph, assistant clerk of the Court of Claims certify that the foregoing are true transcripts of the pleadings in the above-entitled cause, of the findings of fact and conclusion of law filed by the court, of the opinion of the court, of the judgment of the court, of the application for and allowance of appeal to the Supreme Court of the United States.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court of Claims this 24 day of February, A. D. 1904.

[Seal Court of Claims.]

JOHN RANDOLPH,
Ass't Clerk Court of Claims.

24 In the Supreme Court of the United States, October Term, 1903.

JOSEPH L. HARLEY, Appellant,
vs.
THE UNITED STATES, Defendant. } No. 596.

The above-named appellant hereby gives notice that upon the hearing of said cause he will rely upon the following assignments of error:

I.

The court erred in refusing to hold, as matter of law, under the facts found by it, that a contract existed between appellant and defendant, whereby the latter became and was liable to pay to appellant the reasonable value of the use by it of his patented invention.

II.

The court erred in refusing to hold, as matter of law, under said facts, that the United States assumed and became liable to pay to appellant the reasonable value of the use by it of said patented invention.

25 III.

The court erred in holding, as matter of law, under said facts, that the petition of appellant should be dismissed; whereas, under said facts, judgment should have been entered for appellant and against the United States for the reasonable value of the use aforesaid.

IV.

That the facts so found by the court do not support or justify the conclusion of law aforesaid, or the judgment of the court dismissing appellant's petition.

V.

That the court erred in refusing to find the reasonable value of the use by the United States of the patented invention of appellant.

The appellant hereby designates, under the provisions of rule 10, paragraph 9, of the rules of this court, the following parts of the record on file herein as the parts thereof to be printed.

Petition	pages	(folio)	1–5
Argument and submission of case	"	(")	7
Claimant's motion to amend and supplement the findings of fact	"	(")	7
Order on said motion	"	(")	8
Findings of fact and conclusion of law	"	(")	14–18
Opinion of court	"	(")	19–20
Judgment of the court	"	(")	21
Application for and allowance of appeal	"	(")	22
Certificate of clerk	"	(")	23

A. A. HOEHLING, JR.,
Attorney for Appellant.

26 WASHINGTON, D. C., *March 4th*, 1904.

I hereby certify that on this date I have mailed, postage prepaid, addressed to Charles C. Binney, at his office in the North American building, Philadelphia, Pennsylvania, true copy of the foregoing assignments of error and designation of parts of record to be printed; said Charles C. Binney being special assistant attorney of the United States having charge of the defense of said cause.

A. A. HOEHLING, JR.,
Attorney for Appellant.

27 [Endorsed:] File No. 19,247. Supreme Court U. S. October term, 1903. Term No. 596. Joseph L. Harley, app't, *vs.* The United States. Assignment of errors & designation by appellant of parts of record to be printed. Filed Mar. 5", 1904.

Endorsed on cover: File No. 19,247. Court of Claims. Term No. 195. Joseph L. Harley, appellant, *vs.* The United States. Filed February 25", 1904. File No. 19,247.